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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/628,003	07/25/2003	Lester J. Fangman	P06361US00	4012
22885	7590	10/17/2006	EXAMINER	
MCKEE, VOORHEES & SEASE, P.L.C. 801 GRAND AVENUE SUITE 3200 DES MOINES, IA 50309-2721			ELOSHWAY, NIKI MARINA	
			ART UNIT	PAPER NUMBER
			3781	

DATE MAILED: 10/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/628,003	Applicant(s) FANGMAN ET AL.	
	Examiner Niki M. Eloshway	Art Unit 3781	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 8-11 and 18-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8, 9 and 18-21 is/are rejected.
- 7) ☒ Claim(s) 10 and 11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 3781

DETAILED ACTION

Election/Restrictions

1. In view of the amendments filed March 8, 2006 and August 2, 2006, combination claims 6 and 8-11 will be examined with subcombination claims 1-5 and 18-21.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-5 and 18-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1-5 and 18-21 are considered vague and indefinite because it is unclear if applicant is claiming the combination of the outer and inner containers or the subcombination of the outer container. The preambles of the claims are drawn to an outer container for use with an inner container (subcombination with intended use), however, the body of independent claims 1 and 18 positively recite that the inner container is in the outer container (combination). Furthermore, the body of claim 1 recites that "the outer container comprising: a container box...; the inner grease container being within the container chamber...; first and second flaps...", which implies that the inner grease container is an element of the outer container. Is applicant claiming (a) that the inner container is an element of the outer container, (b) the combination of the outer and inner containers, or (c) the subcombination of the outer container with the intended use of housing an inner container therein?

For prior art rejection purposes, it is assumed that applicant is claiming the combination of the inner and outer containers.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Witthoeft (U.S. 5,111,958). Witthoeft teaches an outer container 12 and an inner container 14. The outer container has four walls 20, 22 and 24 and a floor 26. The first and second flaps are element 16 and 18, and the notches are elements 55.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Witthoeft (U.S. 5,111,958) in view of Blessing (U.S. 3,365,092). Witthoeft teaches an outer container 12 and an inner container 14. The outer container has four walls 20, 22 and 24 and a floor 26. The first and second flaps are element 16 and 18, and the notches are elements 55. Witthoeft does not teach the upper and lower pins of the inner container. Blessing teaches that it is known to provide an inner container with pins (see elements 52). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the container assembly of Witthoeft with pins on the inner container, as taught by Blessing, in order to space the inner container from the walls of the outer container.

Art Unit: 3781

8. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Witthoeft (U.S. 5,111,958) in view of Blessing (U.S. 3,365,092), as applied to claim 2 above, and further in view of Jamison et al. (U.S. 5,330,069). The modified container assembly of Witthoeft does not teach the notch covers.

Jamison teaches that it is known to provide a container with notch covers on the first and second flaps. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the modified container assembly of Witthoeft with the flap and cover structure of Jamison et al., in order to allow the user to access smaller portions of the container cavity while restricting access to other portions.

9. Claims 1, 4, 5, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Witthoeft (U.S. 5,111,958) in view of Bonner et al. (U.S. 6,715,627). The container assembly of Witthoeft does not teach the pins (claim 1) and guides (claims 4 and 19). Bonner et al. teaches that it is known to provide a container with pins and guides. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the container assembly of Witthoeft with the pins and guides of Bonner et al., in order to allow the inner container to lock in various different positions.

10. Claims 6, 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Witthoeft (U.S. 5,111,958) in view of Jones (U.S. 3,009,591). Witthoeft teaches an outer container 12 and an inner container 14. The outer container has four walls 20, 22 and 24 and a floor 26. The first and second flaps are element 16 and 18, and the notches are elements 55. Witthoeft does not teach the attachment members and power lifter. Jones teaches that it is known to provide a container with attachment members and a power lifter. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the container assembly of Witthoeft with attachment members and a power lifter, as taught by Blessing, in order to allow the user to remove, move and dump the inner containers when containing a heavy load.

Art Unit: 3781

11. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Witthoeft (U.S. 5,111,958) in view of Jamison et al. (U.S. 5,330,069). The container assembly of Witthoeft does not teach the notch covers. Jamison teaches that it is known to provide a container with notch covers on the first and second flaps. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the container assembly of Witthoeft with the flap and cover structure of Jamison et al., in order to allow the user to access smaller portions of the container cavity while restricting access to other portions.

Allowable Subject Matter

12. Claims 10 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

13. Applicant's arguments with respect to claims 1-5 have been considered but are moot in view of the new ground(s) of rejection. The new grounds of rejection were necessitated by the amendment filed August 2, 2006.

Conclusion

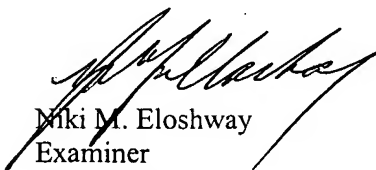
14. In view of the new grounds of rejection for combination claims 6, and 8-11, THIS ACTION IS NON-FINAL.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Niki M. Eloschway whose telephone number is 571-272-4538. The examiner can normally be reached on Thursdays and Fridays 8 a.m. to 4 p.m..

Art Unit: 3781

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on 571-272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Miki M. Eloshway
Examiner
Art Unit 3781

nme